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MEETING OF THE STATES PARTIES TO THE INTERNATIONAL
COVENANT ON CIVIL AND POLITICAL RIGHTS

THIRTEENTH MEETING

SUMMARY RECORD OF THE 18th MEETING

Held at Headquarters, New York,
on Wednesday, 16 March 1994, at 10 a.m.

Temporary Chairperson: Ms. KLEIN
(Representative of the
Secretary-General)

Chairman: Mr. KALPAGE (Sri Lanka)

CONTENTS

Opening of the Meeting by the representative of the Secretary-General

Election of the Chairman

Adoption of the agenda

Credentials of representatives

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INDIANA UNIVERSITY

CONTENTS (continued)

Election of other officers

Election, in accordance with articles 28 to 34 of the International Covenant on Civil and Political Rights, to fill a vacancy on the Human Rights Committee

The meeting was called to order at 10.45 a.m.

OPENING OF THE MEETING BY THE REPRESENTATIVE OF THE SECRETARY-GENERAL

1. The TEMPORARY CHAIRPERSON informed the Committee that, according to the latest figures, there were now 124 States parties to the Covenant, 74 States parties to the Optional Protocol and 19 States parties to the Second Optional Protocol.

2. Mr. O. SACIRBEY (Bosnia and Herzegovina) proposed that the States parties should decide that the Federal Republic of Yugoslavia (Serbia and Montenegro) should not participate in the work of the Meeting of the States parties to the Covenant.

3. Mr. TÜRK (Slovenia) said that there were two issues involved. First, the international community had a legitimate right to expect that a treaty-based regime of human rights protection should, in the event of the extinction of a State, continue to exist for successor States. Ideally, those successor States should make it clear by means of notification of succession that legal regimes would continue to apply without a change. Second, the Federal Republic of Yugoslavia (Serbia and Montenegro) continued to assert the automatic continuity of the legal personality of the former Socialist Federal Republic of Yugoslavia, a State that had ceased to exist. That assertion had been disputed by the other successor States and by other members of the international community. Under the circumstances, the Federal Republic of Yugoslavia was attempting to take advantage of the international treaties and the concerns of the international community for human rights to buttress its assertion of automatic continuity of the former Socialist Federal Republic of Yugoslavia. Slovenia believed that such an assertion should be rejected, and for that reason he would support the proposal of Bosnia and Herzegovina.

4. Mr. DJORDJEVIĆ (Yugoslavia), speaking on a point of order, said that the proposal of Bosnia and Herzegovina was politically motivated and manifestly unfounded and might set a dangerous precedent. He therefore moved, under rule 74 of the rules of procedure of the General Assembly, that no action should be taken on the proposal, and asked that his motion be put to a vote. Furthermore, under rule 87 (a) of the rules of procedure of the General Assembly, he suggested a roll-call vote on all proposals before the meeting.

5. The TEMPORARY CHAIRPERSON invited the representatives of the States parties to speak on the Yugoslav motion.

6. Mr. MATEŠIĆ (Croatia) said that he opposed the motion and, for the reasons stated by the representative of Slovenia, he supported the proposal of Bosnia and Herzegovina.

7. Mr. BRAHA (Albania) said his delegation strongly opposed the motion of the Federal Republic of Yugoslavia and supported the proposal of Bosnia and Herzegovina. The genocide committed against the Muslim people in the Republic of Bosnia and Herzegovina by Serbian forces, the Serbian aggression against that country and efforts to exterminate non-Serb people in the territory of the former Yugoslavia were shameful challenges to the international community as a

(Mr. Braha, Albania)

whole. It was ironic that, at a time when the International Covenant on Civil and Political Rights was being shamelessly violated and disregarded by the Belgrade regime, that regime should wish to have its representatives participate alongside States parties to the aforementioned Covenant. It was particularly ironic that the so-called Federal Republic of Yugoslavia should seek to participate in the Meeting at a time when massive and systematic police and military repression was being inflicted by Serbian authorities on 2 million Albanian people in Kosovo.

8. Mr. DJORDJEVIĆ (Yugoslavia), speaking on a point of order, said it was his understanding that the Meeting was discussing his motion. If that was the case, the statement of the representative of Albania was out of order.

9. The TEMPORARY CHAIRPERSON invited the States Parties to vote on the Yugoslav motion to take no action on the proposal by Bosnia and Herzegovina.

10. The vote was taken by roll call.

In favour: Yugoslavia

Against: Albania, Algeria, Australia, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Chile, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Gabon, Germany, Hungary, Iceland, Iran (Islamic Republic of), Ireland, Israel, Italy, Japan, Latvia, Lithuania, Madagascar, Mali, Malta, Mauritius, Morocco, Netherlands, New Zealand, Nicaragua, Niger, Norway, Paraguay, Philippines, Poland, Portugal, Romania, San Marino, Slovenia, Spain, Sweden, Switzerland, Trinidad and Tobago, Tunisia, United Kingdom of Great Britain and Northern Ireland and United States of America

Abstaining: Argentina, Bolivia, Brazil, Cameroon, Ecuador, Ethiopia, India, Kenya, Lesotho, Nepal, Peru, Russian Federation, Sri Lanka, Uruguay, Venezuela, Zambia and Zimbabwe

11. The motion by Yugoslavia to take no action on the proposal by Bosnia and Herzegovina was rejected by 52 votes to 1 with 17 abstentions.*

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* The following States parties did not wish to participate in the voting: Belarus, Benin, Congo, Côte d'Ivoire, Democratic People's Republic of Korea, Dominican Republic, Guyana, Iraq, Libyan Arab Jamahiriya, Mexico, Mongolia, Ukraine and United Republic of Tanzania.

12. Mr. DJORDJEVIĆ (Yugoslavia), speaking in explanation of vote before the vote on the proposal of Bosnia and Herzegovina, said his delegation strongly objected to attempts by certain States parties to challenge the participation of the Yugoslav delegation in the current meeting. Any action in connection with Yugoslavia's participation in the meeting was unfounded and inconsistent with the letter and spirit of the International Covenant on Civil and Political Rights and the rules of procedure for the Meeting. Various arguments had been advanced by some delegations in an attempt to invoke General Assembly resolution 47/1 and the questions of succession and continuity of the former Socialist Federal Republic of Yugoslavia, as a pretext for their action, were unwarranted and falsely construed.

13. The former Socialist Federal Republic of Yugoslavia had become a party to the Convention on 4 January 1969. In a declaration dated 27 April 1992, the Federal Republic of Yugoslavia had clearly stated that it would continue the State, international, legal and political personality of the former Socialist Federal Republic of Yugoslavia and that it would strictly abide by all international commitments undertaken by that State, including those deriving from international human rights instruments. Such a position was unequivocally supported by the rules of international customary law as codified in the 1978 Vienna Convention on the Succession of States in Respect of Treaties (arts. 34 and 35).

14. The status of the Federal Republic of Yugoslavia as a party to treaties was not in any way affected by General Assembly resolution 47/1, which pertains solely to non-participation in the General Assembly. According to the opinion of the United Nations Legal Counsel (A/47/485) the resolution did not take away the right of Yugoslavia to participate in the work of organs other than Assembly bodies. According to another opinion of the Legal Office of the Secretariat, dated 16 November 1993, the status of Yugoslavia as a party to treaties was not affected by the adoption of General Assembly resolution 47/1. His delegation had been officially invited to take part in the current Meeting, for which it had duly submitted full powers. The Meeting was not an appropriate forum for the discussion either of issues arising from succession to the former Socialist Federal Republic of Yugoslavia or of the status of the Federal Republic of Yugoslavia in the United Nations. Those issues were under consideration within the International Conference on the Former Yugoslavia and in the United Nations.

15. The Federal Republic of Yugoslavia had clearly expressed its readiness and resolve to honour all its duties and obligations arising from the International Covenant on Civil and Political Rights. In full compliance with the decision of the Human Rights Committee, the Government of the Federal Republic of Yugoslavia had submitted its report, which had been considered together with the reports of other State Parties at the forty-sixth session of the Human Rights Committee in Geneva from 19 October to 6 November 1992. For all those reasons, the least that his country could expect as a State Party to the Covenant, was to participate in Meetings of States Parties in order to elect new officers.

16. The denial of the legitimate right of the Federal Republic of Yugoslavia to participate in the Meeting of the States parties would at the same time imply the suspension of its obligations under the Covenant. That would mean that Yugoslavia would no longer be obliged to implement the provisions of the

(Mr. Djordjević, Yugoslavia)

Covenant, and that would result in suspension of the activities in cooperation of the Federal Republic of Yugoslavia with the Human Rights Committee.

17. He reminded States parties that the Covenant belonged to a special category of treaties whose beneficiaries were not States but individual human beings. That was exactly the reason used by the International Court of Justice in the Barcelona Traction case when it ruled that international human rights instruments were valid erga omnes and should be accorded privileged status, i.e., that they should be universally accepted. Accordingly, his delegation, which was simply requesting to continue to honour its commitments under the Covenant, strongly opposed any kind of pressure or the imposition of a majority rule by any group of States. To accept such a politically-motivated approach could only create chaos in international relations and lead to blatant disregard of the basic principles of international law and the Charter of the United Nations concerning universality and the sovereign equality of States.

18. His delegation would therefore cast a negative vote on the proposal to prevent the Federal Republic of Yugoslavia, a State Party to the Covenant, to participate in the current meeting.

19. Mr. MATEŠIĆ (Croatia) said that in accordance with opinion No. 10 of the International Conference on the Former Yugoslavia, as there had been no agreement among the successor States of the Socialist Federal Republic of Yugoslavia concerning succession in respect of the rights and obligations of that State, the general rules of international law dealing with the succession of States in respect of treaties, property, archives and debts should apply.

20. Unlike the other successor States of the Socialist Federal Republic of Yugoslavia, which had acted in accordance with international rules and decisions, the Federal Republic of Yugoslavia (Serbia and Montenegro) had attempted to participate in international forums as a State party to international conventions and/or as a member of international organizations hoping to create a precedent by which it would later seek to prove that it was the sole legitimate successor to the former Socialist Federal Republic of Yugoslavia. That should not be permitted, as it would create a bad precedent.

21. If the Federal Republic of Yugoslavia (Serbia and Montenegro) wished to be considered a party to the Covenant, it must notify the Secretary-General, in his capacity as depositary of international treaties, of its succession as one of the successor States of the former Socialist Federal Republic of Yugoslavia. Currently it was not a party thereto, and thus had no right to participate in the Meeting.

22. At the request of the representative of the Federal Republic of Yugoslavia (Serbia and Montenegro), a vote was taken by roll-call on the proposal by Bosnia and Herzegovina.

In favour: Albania, Algeria, Australia, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Chile, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, El Salvador, Estonia, Finland, France, Gabon, Germany, Hungary, Iceland, Iran (Islamic Republic of), Ireland, Israel, Italy, Japan, Latvia, Lithuania, Madagascar, Malta, Mauritius, Morocco, Netherlands, New Zealand, Nicaragua, Niger, Norway, Paraguay, Philippines, Poland, Portugal, Republic of Korea, Slovenia, Spain, Sweden, Switzerland, Trinidad and Tobago, Tunisia, United Kingdom of Great Britain and Northern Ireland, United States of America

Against: Federal Republic of Yugoslavia (Serbia and Montenegro)

Abstaining: Argentina, Bolivia, Brazil, Cameroon, Côte d'Ivoire, Ecuador, Ethiopia, Guyana, India, Kenya, Lesotho, Nepal, Peru, Romania, Sri Lanka, Togo, Uruguay, Venezuela, Zambia, Zimbabwe

23. The proposal was adopted by 51 votes to 1, with 20 abstentions.*

24. Mr. Djordjević (Federal Republic of Yugoslavia) (Serbia and Montenegro) withdrew.

25. Mr. CHARLIER (Belgium), speaking in explanation of vote on behalf of the States members of the European Union that were parties to the Convention, supported by Mr. SHARP (Australia) and Ms. JONSDOTTIR-WARD (Iceland), on behalf of the Nordic countries, said that the vote of the delegations concerned was without prejudice to their position regarding the status of the Federal Republic of Yugoslavia (Serbia and Montenegro) vis-à-vis the Covenant or the other international obligations of the former Socialist Federal Republic of Yugoslavia. Those delegations were of the view that the Federal Republic of Yugoslavia (Serbia and Montenegro) should abide by the obligations arising under the Covenant.

ELECTION OF THE CHAIRMAN

26. Mr. BORBON (Costa Rica) nominated Mr. Kalpage (Sri Lanka) to serve as Chairman.

27. Mr. Kalpage (Sri Lanka) was elected Chairman by acclamation.

28. Mr. Kalpage (Sri Lanka) took the Chair.

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* The following States parties did not wish to participate in the voting: Belarus, Benin, Congo, Democratic People's Republic of Korea, Dominican Republic, Iraq, Libyan Arab Jamahiriya, Mexico, Mongolia, Ukraine and United Republic of Tanzania.

ADOPTION OF THE AGENDA (CCPR/SP/38)

29. The agenda was adopted.

CREDENTIALS OF REPRESENTATIVES (CCPR/SP/2/Rev.1)

30. The CHAIRMAN, after drawing attention to rule 2 of the rules of procedure of the Meeting (CCPR/SP/2/Rev.1), said that he had been informed that the Secretary-General had yet to receive proper credentials from a number of States parties represented at the Meeting.

31. While urging representatives to ensure that their credentials were submitted to the Secretary-General as soon as possible, he suggested that, in accordance with rule 3, the representatives of the States parties concerned should be entitled provisionally to participate in the Meeting.

32. It was so decided.

ELECTION OF OTHER OFFICERS

33. The CHAIRMAN said that, under rule 4 of the rules of procedure, the Meeting was to elect one to four Vice-Chairmen from among the representatives of the States parties. He had been informed that Mr. Phoofolo (Lesotho) and Mr. Much (Germany) had been nominated to serve as Vice-Chairmen.

34. Mr. Phoofolo (Lesotho) and Mr. Much (Germany) were elected Vice-Chairmen by acclamation.

ELECTION IN ACCORDANCE WITH ARTICLES 28 TO 34 OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, TO FILL A VACANCY ON THE HUMAN RIGHTS COMMITTEE (CCPR/SP/39)

35. The CHAIRMAN drew attention to document CCPR/SP/39, containing a list of the candidates nominated by States parties and their biographical data. As Mr. Costiniu (Romania) had withdrawn, there were now two candidates for the one vacancy to be filled, namely, Mr. Ban (Hungary) and Mr. Maidagi (Niger). He drew the attention of States parties to the provisions of articles 30, 33 and 34 of the Covenant.

36. At the invitation of the Chairman, Miss Peña (Peru) and Ms. Ström (Sweden) acted as tellers.

37. A vote was taken by secret ballot.

Number of ballot papers:	87
Number of invalid ballots:	0
Number of valid ballots:	87
Abstentions:	0
Number of representatives voting:	87
Required majority:	44
Number of votes obtained:	
Mr. Ban (Hungary)	67
Mr. Maidagi (Niger)	20

38. Having obtained the required majority and the largest number of votes, Mr. Ban (Hungary) was elected a member of the Human Rights Committee for a term commencing immediately and ending on 31 December 1986.

39. Mrs. MAIKARFI (Niger) said that Niger had presented a candidate in order to demonstrate its desire to participate more actively in the promotion of respect for human rights. Her Government had undertaken major reforms with the objective of according more rights and freedoms to the people of Niger. She expressed appreciation to all delegations which had supported Niger's candidate.

40. Mr. BRAHA (Albania) said that the representative of the so-called Federal Republic of Yugoslavia (Serbia and Montenegro) who, at the current meeting, had unjustly occupied the seat previously reserved for the former Socialist Federal Republic of Yugoslavia, had tried to misinterpret some statements by other delegations, including his own delegation; he deemed that that representative did not deserve a reply.

The meeting rose at 12.18 p.m.